

APR 18 2011 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

ANDRE BECKLES,
Plaintiff,

— against —

U.S. BANK NATIONAL ASSOCIATION AS
TRUSTEE FOR THE HOLDERS OF MASTR
ADJUSTABLE RATE MORTGAGE TRUST
2007-1 SERVICING; INDYMAC BANK,
F.S.B.; AMERICAN BROKERS CONDUIT;
AMERICAN HOME SERVICING, INC.;
THE MORTGAGE ZONE, INC.,

Defendants.

ORDER AND JUDGMENT

10-CV-1937

JACK B. WEINSTEIN, Senior United States District Judge:

Appearances:

Yolanda A. Corion, Esq., Brooklyn, N.Y, for plaintiff Andre Beckles.

Marka Belinfanti, Hinshaw & Culbertson LLP, New York, N.Y., for defendant U.S. Bank National Association.

Schuyler B. Kraus, Hinshaw & Culbertson LLP, New York, N.Y., for defendant U.S. Bank National Association.

Plaintiff Andre Beckles seeks damages, restitution, and declaratory and injunctive relief arising from his purchase and the subsequent attempted foreclosure of a residential property in Stone Mountain, Georgia ("Stone Mountain property"). Beckles also moves for an extension of discovery. Defendant U.S. Bank National Association ("U.S. Bank") moves for summary judgment.

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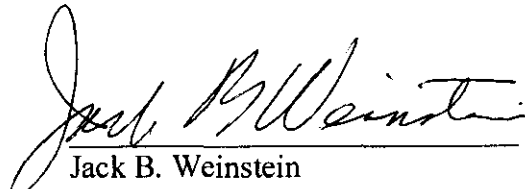
Plaintiff's initial complaint, filed *pro se*, was brought against U.S. Bank and a number of John Doe defendants. His amended complaint, filed with the assistance of counsel, joined defendants Indymac Bank, F.S.B. ("Indymac"); American Brokers Conduit (ABC); American Home Mortgage Servicing, Inc.; and The Mortgage Zone, Inc. Process has not been served as to any of these joined defendants. Claims against them are dismissed for failure to prosecute.

Plaintiff concedes that defendants Indymac, ABC, and The Mortgage Zone are, like plaintiff, citizens of New York. Claims against these parties are dismissed for lack of subject matter jurisdiction as well.

Claims against defendant U.S. Bank concern the foreclosure of the Stone Mountain property. U.S. Bank represents that any foreclosure action initiated has been withdrawn and that no such action is underway. Claims against U.S. Bank are therefore premature and moot. In any event, were such a proceeding in the offing, the case would be transferred for lack of venue to the Northern District of Georgia, where the real property lies.

Plaintiff's complaint is dismissed in its entirety. All other motions are denied as moot.

SO ORDERED.



Jack B. Weinstein
Senior United States District Judge

Date: April 15, 2011
Brooklyn, New York